

INCOME TAX BILL 2022

Explanatory Memorandum

1. This Bill is promoted by David Ashford, M.H.K. on behalf of the Treasury.
2. *Clause 1* specifies the Short Title of the resulting Act.
3. *Clause 2* confirms the Income Tax (Substance Requirements) Order 2021 (“the Order”), subject to amendments. It also provides that the Order continues as a permanent order.
4. *Clause 3* specifies the amendments subject to which the Order is confirmed by clause 2 and provides that the amendments are deemed to have come into effect at the commencement of the Order.
5. *Clause 4* announces that the *Income Tax Act 1970* (“the Act”) is amended as specified in the clauses that follow.
6. *Clause 5* amends section 2ZA of the Act by inserting a new subsection, i.e. subsection (11A), which allows for the making of a request that specified amendments be made for all the years of assessment to which an election applies. It also specifies the circumstances within which this can be done and the applicable time limit.
7. *Clause 6* makes assorted amendments to section 104I of the Act.
8. *Clause 7* amends section 105 of the Act by substituting the equivalent reference in the *Interpretation Act 2015* for the outdated reference to the *Interpretation Act 1976*.
9. *Clause 8* amends section 105K(1) of the Act by removing words which unduly narrow the scope of the section.
10. *Clause 9* amends section 106 of the Act by inserting additional circumstances in which, and purposes for which, specified documents or information can be disclosed to specified persons.
11. The Bill is not expected to have any human resources or financial implications.
12. In the opinion of the member moving the Bill its provisions are compatible with the Convention rights within the meaning of the *Human Rights Act 2001*.



Ellan Vannin

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Ellan Vannin

INCOME TAX BILL 2022

1 **A BILL** to confirm the Income Tax (Substance Requirements) Order 2021; to
2 amend the Income Tax Act 1970; and for connected purposes.

BE IT ENACTED by the Queen’s Most Excellent Majesty, by and with the advice and consent of the Council and Keys in Tynwald assembled, and by the authority of the same, as follows:—

3 **1 Short title**

4 The short title of this Act is the Income Tax Act 2022.

5 **2 Temporary Taxation Order confirmed**

6 The Income Tax (Substance Requirements) Order 2021¹ (hereafter in this Act
7 referred to as “the Order”) —

- 8 (a) is confirmed subject to the amendments in section 3; and
9 (b) in accordance with section 115A of the *Income Tax Act 1970*,
10 continues as a permanent order.

11 **3 Temporary Taxation Order amended**

- 12 (1) The amendments referred to in section 2(a) are as follows —
- 13 (a) in article 3(5) of the Order, omit paragraph (b);
- 14 (b) in article 3(5)(f) of the Order —
- 15 (i) in paragraph (a) of the definition of “**high risk IP entity**”,
16 for “a” substitute “its”;
- 17 (ii) in paragraph (b) of the definition of “**high risk IP entity**”,
- 18 (A) for “a” where it first occurs, substitute “its”;
- 19 (B) for “by a foreign” substitute “overseas by a member
20 of its”;
- 21 (c) in article 3(7)(e) of the Order, in the inserted subsection (4) omit
22 “is not a relevant sector partnership and”;

¹ SD 2021/0156

(d) in article 3(8)(b) of the Order, in the substituted paragraph (a) of section 80E(1) for “has a place of effective management on the Island” substitute “is managed in the Island in relation to the activity”; and

(e) in article 3(8)(f) of the Order, in paragraph (b) of the substituted section 80E(4) for “has a place of effective management on the Island” substitute “is managed in the Island in relation to the activity”.

(2) The amendments are deemed to have come into effect at the commencement of the Order.

Amendment of the Income Tax Act 1970

4 Income Tax Act 1970 amended

The *Income Tax Act 1970* is amended as specified in sections 5 to 9.

5 Amendment of section 2ZA

In section 2ZA (election for income tax cap to be applied) of the *Income Tax Act 1970*, insert the following after subsection (11) —

“(11A) Despite section 84A (additional assessments), —

- (a) where subsection (11) applies; and
- (b) amendments have been made to the assessments in accordance with that subsection,

those amendments may, upon a written request, be made for all the years of assessment to which the election applies; provided the request is made within 3 months of the end of the last tax year to which the income tax cap applies.”.

6 Amendment of section 104I

In section 104I (offence: unlawful disclosure of protected information) of the *Income Tax Act 1970* —

(a) for subsection (1) substitute the following —

“(1) This section applies if someone (the “witness”) has been —

- (a) notified by the Assessor that the Assessor intends to apply to the High Bailiff for the witness to be summoned;
 - (b) summoned,
- under section 104H.”;

(b) in subsection (4) —

(i) for paragraph (a) substitute the following —

- 1 “(a) (if the witness is not an individual) an employee or
2 officer of the witness, provided that the disclosure is
3 necessary to comply with the summons;”;
- 4 (ii) omit “to” from paragraphs (b) and (c);
- 5 (iii) omit the “or” that appears after the semicolon;
- 6 (iv) for paragraph (d) substitute the following —
7 “(d) a person to whom, by the summons or any other
8 legal obligation, it is required to be disclosed; or”;
9 and
- 10 (v) insert the following after paragraph (d) —
11 “(e) a risk manager, insurer, legal adviser or other
12 professional —
13 (i) who the Assessor is satisfied can provide
14 necessary assistance to the witness in the
15 witness’s preparation to attend the hearing
16 under section 104H(2); and
17 (ii) to whom the Assessor has, on written
18 application, in writing authorised the witness
19 to disclose the protected information.”.

20 **7 Amendment of section 105**

21 In section 105(2) (assessor and other officers) of the *Income Tax Act 1970*, for
22 “section 21 of the *Interpretation Act 1976*” substitute “section 80 of the
23 *Interpretation Act 2015*”.

24 **8 Amendment of section 105K**

25 In section 105K(1) (ss 105H and 105I: notices and procedures) of the *Income Tax*
26 *Act 1970*, omit “of the offence”.

27 **9 Amendment of section 106**

28 In section 106(5) (information confidential) of the *Income Tax Act 1970* —

- 29 (a) for paragraph (a) substitute the following —
30 “(a) for the purpose of an objection or appeal before, or an
31 application to, the Commissioners or the Staff of
32 Government Division;”;
- 33 (b) after paragraph (f) insert the following—
34 “(g) to an international organisation or body where, pursuant
35 to an international obligation of the Island, the documents
36 or information (or both) are pertinent to statistical
37 information that the Island is required to divulge.”.

IN THE COUNCIL

INCOME TAX BILL 2022

A **BILL** to confirm the Income Tax (Substance Requirements) Order 2021; to amend the Income Tax Act 1970; and for connected purposes.

Leave to introduce given by the Council on 8 February 2022.

MR ASHFORD

8 FEBRUARY 2022